

**Statement of Thomas P. Lonnie
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on**

H.R. 486, A Land Exchange in the Vicinity of Holloman Air Force Base, New Mexico

**Subcommittee on Public Lands and Forests
Committee on Energy and Natural Resources, United States Senate**

May 11, 2005

Thank you for the opportunity to present the views of the U.S. Department of the Interior on H.R. 486, legislation providing for an exchange of public and private land in the vicinity of Holloman Air Force Base¹ in New Mexico. In previous testimony on similar legislation (H.R. 4808) given in the 108th Congress, we raised significant concerns, several of which have been addressed in H.R. 486. One concern previously identified in our testimony on H.R.4808 remains outstanding, and we have identified new concerns described more fully in this testimony. The Department has significant concerns with H.R. 486 and could support the bill if our concerns are addressed.

Background

As an initial matter, the Department views this as a unique situation using Bureau of Land Management (BLM) lands and the provisions of the Federal Land Policy and Management Act (FLPMA) of 1976 (P.L. 94-579) to resolve this issue involving the military's need for private lands in Otero County, New Mexico. Given this, we do not expect this matter to serve as precedent for future BLM land exchanges.

Approximately 241 acres of the Mesa Verde Ranch, owned by Randall, Jeffrey, and Timothy Rabon, are situated within the explosive safety zone surrounding a Munitions Storage Area at Holloman AFB. The safety zone for the Munitions Storage Area was previously included in easements immediately adjacent to the eastern boundary of the base, but several of the safety zone easements have terminated. To secure the safety zone around the Munitions Storage Area, Holloman AFB considered acquiring the Rabons' 241 acres through acquisition, land trade, conservation easement, or condemnation. Acting on behalf of Holloman AFB, the U.S. Army Corps of Engineers offered to buy the 241 acres from the Rabons. However, the parties failed to reach agreement on a purchase price.

On December 29, 2003, the Rabons submitted a land exchange proposal to the BLM under which they would convey the 241 acres to Holloman AFB in exchange for BLM conveying to them certain inholdings-parcels of BLM-managed public land located within the Rabons' ranch. On July 9, 2004, H.R. 4808 was introduced, which directed the exchange of the Rabons' 241 acres for parcels of BLM-managed public land located within the Mesa Verde Ranch (the same parcels identified in the Rabons' proposal to the BLM of December 29, 2003). At a September 14, 2004, hearing of the House Resources Subcommittee on National Parks, Recreation, and Public Lands, the BLM testified that it had significant concerns with H.R. 4808. The legislation was not enacted. In the meantime, the military still has been unable to reach agreement with the Rabons on a price at which Holloman AFB could purchase the land.

H.R. 486

Under H.R. 486, the Rabons would convey to the United States three parcels of private land, totaling approximately 241 acres, contiguous to Holloman AFB and located within the required safety zone surrounding munitions storage bunkers at the base. H.R. 486 directs the Secretary of the Interior (Secretary) to convey to the Rabons approximately 320 acres of public domain land currently managed by the BLM in the state of New Mexico. As distinguished from the BLM parcels identified in H.R. 4808 in the last Congress, the 320-acre parcel of public land which the Secretary is directed to convey to the Rabons under H.R. 486 is not located within the boundaries of the Mesa Verde Ranch; rather, it is located near the southern portion of the city of Alamogordo, New Mexico, and has been identified for retention under the BLM's land use planning process.

H.R. 486 directs the Secretary to carry out the exchange in the manner provided in section 206 ["Exchanges"] of the Federal Land Policy and Management Act (FLPMA) of 1976 (P.L.94-579), but waives the provision in section 206(b) which limits the amount of cash that may be paid to equalize exchange values of the Federal land conveyed.

We commend the bill's sponsor for addressing in H.R. 486 several of the concerns we previously raised in testimony on H.R. 4808. Specifically:

- In response to our concern that H.R. 4808 should specify which acres of public land and privately-owned lands are intended for the exchange, H.R. 486 provides a precise description of the lands to be involved in the exchange.
- We asked for the opportunity to develop a map to portray accurately the exchange proposed in H.R. 4808, and to include reference to the map in the legislation. Subsequent to the September 14, 2004, hearing on H.R. 4808, the Rabons selected different parcels of public land they wished to acquire. The BLM developed a map, which is referenced in section 1(a) of H.R. 486. We note that the bill should be amended to reflect the name of the map as "Alamogordo Rabon Exchange".
- We objected to the provision in H.R. 4808 that would have deducted the Rabons' previous expenses (incurred in their response to the military's efforts to purchase the 241 acres) from any cash equalization payment due to the Federal government as contrary to the public interest. This provision does not appear in H.R. 486.
- In response to our assertion that it was important that lands involved in the proposed exchange be of equal value based upon appraisals prepared in accordance with the Uniform Appraisal Standards for Federal Land Acquisition, H.R. 486 directs the Secretary to carry out the exchange in the manner provided in section 206 of FLPMA. This will assure that the appraisals will comply with Federal appraisal standards and the U.S. Department of Justice *Uniform Standards for Federal Land Acquisition*.

Concerns with H.R. 486

One provision in H.R. 486 remains unchanged from H.R. 4808. We testified as to our concern with this provision at the September 14, 2004, hearing on H.R. 4808. We continue to have concerns with this provision.

Specifically, as in H.R. 4808, H.R. 486 requires the Secretary of the Interior to assume administrative jurisdiction over the 241-acre parcel to be conveyed by the Rabons. As stated in our testimony on H.R. 4808, this acquired land should **not** be placed under the administrative jurisdiction of the Secretary of the Interior. The Federal government's sole purpose in acquiring this 241-acre parcel is for the protection of military interests at Holloman AFB. The acquired land should therefore be withdrawn to the Secretary of the Army for that purpose and included within existing Public Land Order 833.

H.R. 486 directs the Secretary to carry out the land exchange in the manner provided in section 206 of FLPMA. Under section 206, lands proposed for exchange with the United States government must be of equal value with the lands to be conveyed out of Federal ownership. If lands proposed for an exchange are not of equal value, subsection (b) of section 206 provides for a cash payment to be made by either the government or the private-property owner, as appropriate, in order to equalize the values of the lands involved in the exchange, provided the payment amount does not exceed 25 percent of the total value of the lands transferred out of Federal ownership.

H.R. 486 [section 1(d)(1)] waives the 25 percent limitation in section 206(b) of FLPMA. The effect of this provision in H.R. 486 is that the dollar amount of any cash payment to equalize the values in this exchange would not be limited. This is inconsistent with the section 206 FLPMA process. In addition, generally an exchange proponent is responsible for paying appraisal costs. If the legislation requires the government to pay this cost, funds should be provided for this purpose.

We would like to work with the Committee to address these concerns.

Thank you again for the opportunity to testify on H.R. 486. I would be glad to answer any questions.

¹ Holloman AFB is in south-central New Mexico, near the town of Alamogordo in Otero County. Operated by the United States Air Force, the installation covers nearly 60,000 acres. It is located on lands withdrawn from the public domain for military purposes under Public Land Order 833.